

**ORDER NO. 79121**

IN THE MATTER OF THE APPLICATION * OF WASHINGTON GAS LIGHT * COMPANY FOR AUTHORITY TO * INCREASE EXISTING RATES AND * CHARGES FOR GAS SERVICE AND TO * IMPLEMENT AN INCENTIVE RATE * PLAN. *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND  _____  CASE NO. 8959  _____
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This matter comes before the Commission on the Application of Washington Gas Light Company for Rehearing of Commission Order No. 78757 (“Rehearing Application”). Washington Gas Light Company (“WGL” or the “Company”) filed its Rehearing Application on November 26, 2003. The Office of People’s Counsel filed its Response of the Office of People’s Counsel to the Application of Washington Gas Light Company for Rehearing of Commission Order No. 78757 on December 9, 2003.

WGL’s Rehearing Application raises a single issue, the issue of flotation costs. WGL argues that the Commission’s decision to deny flotation costs in this case represents an abrupt departure from long-standing Commission policy, made without notice to the Company. The Commission disagrees with WGL’s assessment. The Commission is not departing from past precedent. The Commission’s decision in Order No. 78757 is consistent with the Commission’s practice of analyzing the appropriateness of flotation costs on a case-by-case basis. Consequently, the Commission denies the Rehearing Application, and affirms Order No. 78757.

Despite WGL's assertions to the contrary, a careful review of Commission cases over time shows that the Commission is not departing from its past practice in this case. The Commission has not automatically added a set amount for flotation costs in its prior rate cases. Instead, the Commission's precedent demonstrates that it examines the record before it in each case and makes a decision on the appropriateness and amount of flotation costs in each case based upon that record. In this instance, the Commission followed that precedent and determined that the appropriate level of flotation costs is zero.

As in all cases, in the present case the Commission evaluated the evidence and balanced the specific factual circumstances of the case to reach a fair and reasonable decision. The net result of the Commission's examination of all the evidence in this case, including flotation cost evidence (which is meager at best), is a decision on return on equity and overall rate of return that is just and reasonable. This is consistent with the Commission's practice of balancing all of the evidence to reach an end result that is just and reasonable.

The capital structure adopted in the Proposed Order, and accepted by the Commission in Order No. 78757, is the capital structure proposed by the Company and represented by the Company to be its actual capital structure. The acceptance of this capital structure is consistent with the Commission's preference in rate cases for actual capital structure absent compelling evidence for an alternate capital structure. Despite the Commission's acceptance of this capital structure for this rate case, the existing capital structure has implications and can affect other issues, such as the determination of the appropriate cost of equity. The Company's debt/equity ratio, while not unacceptable, has a

relatively high proportion of equity. It is less likely in the near term that the Company will actually issue equity and incur flotation costs. It was reasonable to consider the relatively high proportion of equity and low probability of the issuance of new equity to conclude that flotation costs should be set at zero in this case. The final result of the Commission's deliberations was a just and reasonable return on equity for the Company.

In any rate case, the utility bears the burden of proof with respect to any costs that it claims. (Public Utility Companies Article § 3-112(b).) The Commission finds that in this case, with respect to flotation costs, WGL has failed to meet its burden and that the approval of flotation costs is not justified based upon the record presented. This finding is based upon the Commission's assessment of the evidence presented on the flotation cost issue and on Company plans with regard to the issuance of equity during the rate-effective period, the evidence regarding the Company's capital structure, and the low anticipated interest rates. The cost of equity capital for WGL, of 10.75%, is supported by the evidence, is within the range of reasonableness based upon the testimony presented and the Commission's assessment of that testimony, and is hereby affirmed.

IT IS THEREFORE, this 7<sup>th</sup> day of May, in the year Two Thousand and Four,

ORDERED: That the Rehearing Application of Washington Gas Light Company is hereby DENIED.

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Kenneth D. Schisler

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J. Joseph Curran, III

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Gail C. McDonald

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Ronald A. Guns

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Harold D. Williams

Commissioners